

**SCA-4**

September 2, 1983

This is in reply to your letter of July 19, 1983, concerning the applicability of section 4(c) of the Service Contract Act in situations where the contracting agency has not given a 30 day notification in accordance with section 4.1.b(b)(4) of Regulations, 29 CFR Part 4.

Section 4(c) of the Act provides that "no contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and any prospective increases in wages and fringe benefits provided for in a collective bargaining agreement as a result of arms-length negotiations, to which such service employees would have been entitled if they were employed under the predecessor contract." The limitations on the application of section 4(c) set forth in section 4.1c(b) of the Regulations apply only if the contracting officer has given both the incumbent (predecessor) contractor and his employees' collective bargaining representative notification at least 30 days in advance of any estimated procurement date. Absent such notification, the provisions of section 4(c) are self-executing by the statutory language of the Act and any collective bargaining agreement consummated during the period of performance on the predecessor contract is applicable to the successor contract, regardless of the date of receipt of such agreement by the contracting agency or the date of issuance of the wage determination reflecting the provisions of such agreement.

Sincerely,

Sylvester L. Green

Director

Division of Government Contract Enforcement